

**REMARKS**

**Status of the Application and Formalities**

**Claim Status**

Claims 1-15 are all the claims pending in the application.

**Drawings**

Applicants thank the Examiner for accepting the drawings submitted on November 18, 2008.

**Specification**

Applicants also thank the Examiner for accepting the amendments to the specification filed on November 18, 2008.

**Art Rejections**

Claims 1-15 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Schuckmann (DE 93 02 196) in view of Ganzeboom (U. S. 2005/0006409).

Applicants respectfully traverse.

**Claim Rejections - 35 U.S.C. § 103**

*Claims 1-15 over Schuckmann in view of Ganzeboom.*

In rejecting claims 1-15, the grounds of rejection state:

Regarding claims 1, 2 and 13, Schuckmann discloses a dispenser including a first fluid dispenser member associated with a first fluid reservoir, wherein the first member includes a first actuating rod mounted to move along the rod axis between a rest position and an actuated position. Schuckmann further discloses a second fluid dispenser member associated with a second fluid reservoir, wherein the second member includes a second actuating rod mounted to move along a second rod axis between a rest position and an actuated position. Schuckmann additionally discloses that the first and second rod axes coincide (see marked-up figures 11 and 14).

[omitted]

Marked-up Figure 14

Schuckmann further discloses the first rod having a free end pointing in a first direction and a second rod having a second free end pointing in a second direction, the two members being disposed one relative to the other with the first and second rod axes extending parallel and with the first direction being opposite to the second direction, so that one dispenser member is disposed upside down relative to the other dispensing member (see marked-up figures 11 and 14).

[omitted]

Marked-up Figure 11

Furthermore, Schuckmann discloses the reservoirs to be airless reservoirs with their volumes decreasing as fluid is extracted therefrom. In addition, Schuckmann discloses one of the dispenser members has an internal return spring 12 that urges the actuating rod towards its rest position (see marked-up figure 14 and page 1 of translation).

With further regards to claims 1 and 13, and with respect to claims 14 and 15, Schuckmann discloses all the elements of the claimed invention except a load adjustment spring.

Ganzeboom teaches a fluid dispenser including a fluid dispensing member 5 associated with reservoir including an actuation rod 6 mounted to move along a first rod axis between a rest position and an actuated position. Ganzeboom further discloses the dispenser having an internal return spring 19 that urges the actuating rod towards its rest position. Ganzeboom additionally discloses the use of a load adjustment spring 46 disposed outside the dispenser member supported between the pump and dispensing head in order to bias the two members, returning the actuation rod to the leakage free initial position (see figures 2 and 10, and paragraphs 70 and 71).

(Office Action at pages 2-7.)

Applicants note that “impermissible hindsight must be avoided and the legal conclusion must be reached on the basis of the facts gleaned from the prior art.” MPEP § 2142. Nothing in Ganzeboom or Schuckman would lead one of ordinary skill to combine Ganzeboom with Schuckmann.

Ganzeboom discloses a pump provided with a spring 43 or 46 (figure 9 or 10) so that the maximum stroke and/or the maximum force transferable to the single operating part 6 can be varied. (See Ganzeboom, ¶ 0067). Ganzeboom, however, does not suggest applying such a spring in a “dual” dispenser as disclosed in Schuckmann, or indicate that such a spring would be suitable for use in a “dual” dispenser. Furthermore, Schuckman does not recognize a problem with the actuation forces in the “dual” dispenser or indicate that there is any need for a load adjustment spring.

In contrast, the devices as recited in independent claims 1 and 15 provides unexpected results that render the claimed invention non-obvious. For instance, an exemplary advantage of the devices claimed in independent claims 1 and 15 is that a fluid dispenser having a first and a second fluid dispenser member combined with a load adjustment spring can achieve an additional and unexpected effect, i.e., the sequencing of the actuations in an opposite dual pump dispenser. (See current application, page 12, line 32 to page 13, line 22, for a detailed description of these advantages.) Neither Ganzeboom nor Schuckman contemplated such capabilities and neither reference suggests sequencing the actuation of dual pump dispenser.

Accordingly, the device provided in independent claim 1 provides a supplemental function which is only achievable in an opposite pump dual dispenser because the actuating forces are directed in opposite directions. In a parallel pump dual dispenser, this effect or function is not achieved. Thus, there would be no rationale for a person having ordinary skill in the art to modify Schuckmann in view of Ganzeboom without the benefit of impermissible hindsight.

Applicants submit that dependent claims 2-12 and 14-15 are allowable at least by virtue of their respective dependencies from independent claims 1 or 13.

**Conclusion**

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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